IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 513 of 1987

Date of Decision: 17-06-2004

MULIBEN B SHARMA

Versus

KHUSHALCHAND BABURAM SINGLA

Coram:

The Hon'ble Mr.Justice Bhawani Singh, Chief Justice

The Hon'ble Mr.Justice H.K.Rathod, Judge

Whether approved for reporting?

For the appellant: MR RAJNI H. MEHTA

For the respondent: MR S.S. BELSARE

PER: BHAWANI SINGH, CHIEF JUSTICE (ORAL):-

1. This Appeal is directed against the award of the Motor Accident Claim Tribunal (Main), Vadodara, in Motor Accident Claim Application No.751 of 1983 dated 09-09-1986.

2. The accident occurred on 23-03-1983 at about

Whether Reporters of Local Papers may be allowed to see the Judgment?

11.30 a.m. near Makarpura within the City of Baroda when the claimant was knocked down from Scooter (No.PUC 899) by Truck (No.GTT 4203). The allegation is that accident was caused due to rash and negligent act of driver driving the Truck with excessive speed. The claimant was shifted to the hospital at Vadodara, treated, subjected to operations, recovering after prolonged treatment. He was working as Assistant Drilling Operator drawing emoluments of Rs.3200/- per month including the Field Allowance @ Rs.1200/- per month. After the accident, he could not go for field work, therefore, he would not be entitled to field allowance. The owner and driver did not appear before the Tribunal, therefore, written statements have not been filed by them.

2. The Insurance Company has denied the facts as to accident, age, nature of work, income of the claimant and expenditure involved in the treatment. After hearing the parties, the Claims Tribunal held that the accident took place as alleged and awarded compensation of Rs.1,09,651/- with interest at the rate of 12% per annum with proportionate costs. The appellant confined it's submissions to the quantum of compensation awarded by the Claims Tribunal. It is contended that compensation of Rs.1,09,651/- could not have been awarded for the disability of 22%. We do not agree with this submission. Examination of statement by Dr.Yogesh (Exh.54) plainly demonstrate the injuries suffered by the claimant. These injuries are serious in nature. Claimant suffered three fractures, head injury, crush injury to right hand middle finger besides other injuries. It is also stated that the claimant would suffer the effect of injuries in later life also due to the nature of his work. After perusing the injury statement, there is no manner of doubt that injuries suffered by the claimant are grievous and serious. Obviously, he must have undergone great pain and suffering during the treatment and the result is also that his right hand middle finger has been amputated leaving him permanently handicapped for the remainder of his life. The doctor has assessed his disability on the net result, which cannot be divorced from the circumstances preceding it. Therefore, in the totality of the circumstances, there is no difficulty in coming to the conclusion that the Claims Tribunal has taken into consideration the evidence comprehensively before awarding the compensation in the case. It cannot be said that the assessment of evidence and conclusions are

perverse calling for interference by this Court.

Consequently, we conclude that there is no merit in this Appeal, and the same is dismissed. There shall be no order as to costs.

(BHAWANI SINGH)
CHIEF JUSTICE

(H.K. RATHOD)
JUDGE

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